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99TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPORT
99-542

COMPLETED

BEULAH C. SHIFFLETT

APRIL 17 1986.—Committed to the Committee of the Whole House and ordered to be printed

Mr. GLICKMAN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 1389]

The Committee on the Judiciary to whom was referred the bill (H.R. 1389), for the relief of Beulah C. Shifflett, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof, the following:

That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Beulah C. Shifflett of Albemarle County, Virginia, \$811.20, in full settlement of all claims of Beulah C. Shifflett against the United States by reason of nonreceipt of two Treasury checks numbered 5,254,109 dated September 27, 1963, in the amount of \$800.00; and numbered 5,264,568, dated October 11, 1963, in the amount of \$11.20, both of which checks were issued to Beulah C. Shifflett by authority of the United States Army Finance and Accounting Center in payment of lawful obligations of the United States.

PURPOSE

The purpose of H.R. 1389 is to direct the Secretary of the Treasury to pay claimant \$811.20 in full settlement for her claim based on nonreceipt of two Treasury checks issued to her in 1963.

BACKGROUND

Claimant's son, Albert Shifflett, was inducted into the United States Army on June 22, 1963 in Richmond, Virginia. After basic training, he was assigned to the United States Army Training Center at Fort Knox, Kentucky, with a proceed date of August 30, 1963, and reporting date to Fort Knox of September 13, 1963. Leave was authorized and taken by Private Shifflett enroute to his new assignment. While at home on leave in Green County, Virginia,

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Private Shifflett shot himself in the head and died instantly. The date of death was September 9, 1963. A commissioned Army officer determined, pursuant to a line of duty investigation, that death was accidental.

Mrs. Shifflett states that she never received the checks in question which represented payment for a death gratuity (\$800) in the case of her son who died while on active duty in the Army and her son's final pay (\$11.20). Mrs. Shifflett is an uneducated woman, barely able to read and write, who lives in an isolated area in Virginia. The confusion caused by the variety of Army and veteran's benefits, the necessary forms, and other various papers at the time of her son's tragic death may have provided a climate for either the loss of the checks or the failure to follow up in the event they never reached the Shifflett home.

The Army stated that checks are kept by the Treasury for 6 years and then destroyed, but a record is kept as to whether a check has been cashed. In this case, a stop payment action with regard to the checks was initiated, and the records show that the checks were transacted. With destruction of the documents, in accordance with Treasury Department record management procedures, it is now impossible to determine who the endorser was.

It its report to the Committee, the Department of the Army noted that Mrs. Shifflett had little formal education and was unaware of her entitlement to a death gratuity. She has stated under oath that she did not receive the checks. The Army also noted that her employer, pastor and others in the community attested to their knowledge that she is a truthful and honest person.

The Army recognized the "unique aspects" of the case and although deferring to Congress on the question of relief, recommended a direct authorization of payment.

The Department of the Treasury opposed any waiver of the applicable statute of limitations, but recommended a direct authorization of payment.

The Committee concluded that a direct payment of \$811.20 should be made to Mrs. Shifflett and therefore recommends favorable consideration of H.R. 1389 by the House.

DEPARTMENT OF THE ARMY,
Washington, DC, May 31, 1984.

HON. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 450, 98th Congress, a bill "for the relief of Beulah C. Shifflett."

The bill would direct the Secretary of the Treasury to entertain claims based on nonreceipt of Treasury checks issued to Beulah C. Shifflett in 1963 in payment of lawful obligations of the United States. Mrs. Shifflett states that she never received the checks in question which represented payment for a death gratuity (\$800) in the case of her son who died while on active duty in the Army and her son's final pay due (\$11.20).

The records of the Department of the Army and information provided by the Representative from the Seventh District of the Com-

monwealth of Virginia, the Honorable J. Kenneth Robinson, disclose the following facts: Albert Shifflett was inducted into the United States Army for a two year tour of active duty on June 22, 1963, as a member of Company D, 1st Battalion, 1st Training Regiment, Richmond, Virginia. He started basic combat training on July 8, 1963 as a member of Company D, 1st Battalion, 1st Training Regiment, Fort Gordon, Georgia. He completed basic training after earning the Expert Marksmanship Badge. He was assigned to the United States Army Training Center at Fort Knox, Kentucky, with a proceed date of August 30, 1963, and reporting date to Fort Knox of September 13, 1963. Leave was authorized and taken by Private Shifflett enroute to his new assignment. While at home on leave in Greene County, Virginia, Private Shifflett shot himself in the head and died instantly. The date of death was September 9, 1963. A commissioned Army officer determined, pursuant to a line of duty investigation, that death was accidental.

On September 11, 1963, Colonel Harry H. Walker, Commander of the Training Regiment to which Private Shifflett had been assigned, transmitted condolences to Mrs. Beulah Shifflett, the mother of the deceased. On September 18, 1963, Second Lieutenant Walter R. Weaver, Commander of the Basic Training Company that Private Shifflett had just departed, likewise offered his sympathy in a letter to Mrs. Shifflett. On October 20, 1963, Brigadier General Kenneth G. Wickham transmitted a copy of a casualty report to Mrs. Shifflett which General Wickham indicated might be useful in the settlement of Private Shifflett's affairs.

Records available to the Department of the Army at this time fail to indicate the extent of any counseling to Mrs. Shifflett. Guidelines for officers advising survivors of deceased Army personnel, which were in effect in 1963, indicate that such officers were to use extreme caution in advising individuals of expected benefits. An Army pamphlet entitled "For Your Guidance," dated June 1960, was to be left by the survivor's assistance officer with the visited relative of the deceased member. The booklet provided a synopsis of what benefits and rates were available to the survivor. It indicates to whom the survivor should inquire in the event of a question and designates legal assistance officers as available for consultation for initial legal problems. Congressman Robinson's office has advised, however, that Mrs. Shifflett is an uneducated woman, barely able to read and write, who lives in an isolated area in Virginia. The confusion caused by the variety of Army and veteran's benefits, the necessary forms, and other various papers at the time of her son's tragic death may have provided a climate for either the loss of the checks or the failure to follow up in the event they never reached the Shifflett home.

The Department of the Treasury has advised that a record of cancelled Government checks is kept for a period of six years and seven months. This period is a reflection of the limitation on civil actions for forgery or alterations of Government checks. After that period, the checks are destroyed, but a record is maintained as to whether a particular numbered check has been cashed or not; however, the record does not indicate who endorsed the check. Therefore, if in fact the checks were lost, misplaced, or destroyed, the records of the Department of Treasury would indicate no transac-

tion for the documents in question. In this case, a stop payment action with regard to the checks was initiated, and the records show that the checks were transacted. With destruction of the documents, in accordance with Treasury Department record management procedures, it is now impossible to determine who the endorser was.

The Army agrees that the statutory time limits for filing claims against the Government should be waived for only the most compelling of circumstances. One of the reasons for the six-year limiting period is to avoid claims under circumstances that would preclude criminal prosecution for fraudulent endorsement or alterations that became evident by the claims. The instant case presents an inference that the checks issued to Beulah Shifflett may have been endorsed fraudulently.

Mrs. Shifflett has little formal education and was unaware of her entitlement to a death gratuity and the unpaid balance of her son's pay, amounts that the checks represented. Mrs. Shifflett has stated under oath that she did not receive the checks in question. Her employer, her pastor, and others in her community have attested to their knowledge that she is a truthful person, and to her excellent reputation for honesty in the community. Although Treasury records show that the checks in question were negotiated, the checks themselves have been destroyed, thus making it impossible to determine who actually presented them. In light of this fact, it should be noted that a search of the telephone directories for Mrs. Shifflett's home town and surrounding area shows that there are over 330 listings for the name Shifflett or its variations, making it a reasonable possibility that the checks may have been misdelivered and subsequently cashed by someone else. In view of the unique aspects of Mrs. Shifflett's case, we defer to the Congress with respect to enactment of H.R. 450. In the event that relief is determined to be warranted and justified, then the Army would suggest a direct payment to Mrs. Shifflett out of the General Fund rather than a waiver of delimiting filing periods.

We note one technical error in the bill. The statutory claims limitation period was codified at section 3702 of title 31, United States Code, by Public Law 97-258, September 12, 1982.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

PAT HILLIER,
Assistant Secretary of the Army,
(Financial Management).

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DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC May 3, 1984.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Department of the Treasury wishes to submit its views on H.R. 450, "For the relief of Beulah C. Shifflett."

The bill would require the Secretary of the Treasury to adjudicate, as if timely filed, claims by Beulah C. Shifflett for the proceeds of two Treasury checks issued in 1963.

The files of the Treasury Department indicate the following: Mrs. Shifflett is the mother of Albert Shifflett, formerly a member of the United States Army, who died on September 9, 1963, while on active-duty status. As Private Shifflett's survivor, Mrs. Shifflett was entitled to receive a death gratuity payment and pay due Private Shifflett at the time of his death. The Department's records indicate that Mrs. Shifflett was paid a death gratuity payment of \$800.00 by check numbered 5,254,109, symbol No. 5053, dated September 27, 1963, and the final pay due Private Shifflett in the amount of \$11.20 by check numbered 5,264,568, symbol No. 5053, dated October 11, 1963. Mrs. Shifflett, through her attorney, denies ever having received either check.

A claim for the proceeds of the checks apparently was not filed with the issuing agency, the Army Finance and Accounting Center, until 1976. The resulting stop payments on both 1963 checks are dated April 13, 1976, and were returned to the Army with the advice that both checks had been paid and subsequently destroyed. By letter of June 7, 1976, the Department informed Mrs. Shifflett that her claim had not been filed within the six-year period as required by 31 U.S.C. 3702 and that recovery of the amounts claimed was therefore barred. The letter further informed her that Treasury was without authority to take further action and that, accordingly, we were closing the Department's file in the matter.

Although the Department's records indicate that Mrs. Shifflett was paid for the claims in question, this is not the basis for the Department's opposition to this legislation. Mrs. Shifflett's claim was not filed within the six-year statute of limitations. The Department's position is that lack of knowledge is not sufficient justification for waiving the statute of limitations on paid checks. The Treasury Department receives numerous requests stating similar circumstances; but it is not possible to determine the merits of any case without firm evidentiary support. The only way to assure the availability of evidence would be the indefinite retention of the paid-check files, which would be impractical in light of the present annual volume of over 800 million Treasury checks.

The Department relies on a body of well-defined statutes and regulations in providing fair and impartial adjudication of all claims on Treasury checks. Since the statutory time limit for filing this claim has expired, we believe that reopening this claim would set an undesirable precedent for the Department's check-claims process. Consequently, the Department opposes enactment of H.R. 450.

However, in the event the Congress determines that relief is warranted and justified under the particular circumstances of this case, then the Department suggests that a direct payment to Mrs. Shifflett be made out of the General Fund of the Treasury rather than under a procedure which would require a waiver of the statute of limitations.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

MARGERY WAXMAN,
Deputy General Counsel.

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